

LAW AMENDMENTS COMMITTEE - DOCTORS NOVA SCOTIA SUBMISSION

March 25, 2024

Presenters:

Dr. Colin Audain, President, Doctors Nova Scotia
Nancy MacCready-Williams, CEO, Doctors Nova Scotia

Dear members of the Law Amendments Committee,

Thank you for the opportunity to present on the amendments to the *Privacy and Health Information Act (PHIA)* tabled under Bill No. 419, the *Financial Measures (2024) Act*.

I'm Dr. Colin Audain, President of Doctors Nova Scotia. I'm a practicing anesthesiologist located in Halifax. I'm joined by Nancy MacCready-Williams, CEO of Doctors Nova Scotia.

Doctors Nova Scotia represents more than 3,500 members, including practising and retired physicians and medical learners. Our purpose is to help physicians to thrive and have a positive impact on our patients' lives, at an individual and system level.

I want to start by commending this government on their commitment to giving patients better access to their health information. Doctors Nova Scotia is supportive of this initiative as it gives patients more autonomy in the management of their health and supports better health care.

I understand the proposed amendments will allow the government to make regulations under *PHIA* that would require physicians, as custodians, to disclose patients' personal health information to the Minister of Health and Wellness "for the purposes of planning and managing the health system, resource allocation and creating or maintaining electronic health record programs and services."

Doctors Nova Scotia understands that the purpose of these proposed amendments is to improve Nova Scotians access to their health information, through e-health initiatives such as the recently piloted YourHealthNS app.

While we're supportive of patients having better access to their health information, physicians are concerned about how the information could be used by the government and for what purpose. As physicians, we're responsible for protecting patients' health information and the confidentiality inherent in the therapeutic relationship between physicians and patients.

I have had an opportunity to share these concerns with the Premier and senior government officials. After several conversations, we've been able to agree on a path forward that will address these concerns and help ensure physicians and patients are protected under this government's leadership.

The Premier and senior government officials have committed to working with Doctors Nova Scotia to establish a Data Governance Framework that will provide a formal commitment outlining the parameters for the collection, use, disclosure, retention and disposal of information extracted from physicians' EMRs for the purpose of the YourHealthNS app. In addition, government has committed to creating a Standing Committee on Data Governance to oversee data governance for this initiative and future innovations.

At this time, we believe the government's expressed plan for accessing patient information is well intentioned, and we feel through adequate safeguards we can protect the confidentiality inherent in the therapeutic relationship between physicians and patients.

This may leave you wondering why we've taken the time to be here today to speak about the proposed changes. Although we're confident in this government's intentions, we recognize that these legislative changes will have impacts for decades to come. While we support putting patient health information directly in patients' hands, we are concerned with the broad nature of the legislation and the authority it provides this Minister, and every Minister thereafter, to make regulations that may or may not include the safeguards we plan to have in place through the Governance Framework and Standing Committee agreed to. We'd like to see greater protection within the legislation to ensure the legacy of this government's intentions and the safeguards that will be in place will be honoured in the future.

We ask for a minor change to the bill:

Section 110(1)(na) requiring custodians and classes of custodians to disclose personal health information to the Minister or a person acting on behalf of the Minister for the purposes of planning and management of the health system, resource allocation and creating or maintaining electronic health record programs and services, **when the requirements are consistent with terms negotiated with affected custodian professional associations;**

This change would allow the good intentions of this government to be honoured by those governments who will succeed them in the decades to come.

Thank you for the opportunity to present today. Consistent with the spirit of the change and government's intentions and commitments, I hope the committee will recommend this change.

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